

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 KEENAN G. WILKINS,) No. C 11-2704 LHK (PR)
12 Plaintiff,) ORDER CERTIFYING THAT
13 v.) APPEAL IS NOT TAKEN IN
14 COUNTY OF ALAMEDA, et al.,) GOOD FAITH
15 Defendants.)
16 _____)

17 This is a Section 1983 action brought by an inmate proceeding *pro se*. Plaintiff was
18 granted leave to proceed in forma pauperis (“IFP”). On September 29, 2011, the court dismissed
19 plaintiff’s amended complaint with leave to amend for violating Federal Rules of Civil
20 Procedure 18 and 20. After requesting two extensions of time, plaintiff filed a second amended
21 complaint. On May 1, 2012, the court dismissed plaintiff’s second amended complaint for
22 failing to cure the deficiencies pointed out in its previous order dismissing the amended
23 complaint with leave to amend. On May 9, 2012, plaintiff filed a notice of appeal. On May 23,
24 2012, this court certified that the appeal was not taken in good faith. On June 8, 2012, plaintiff
25 filed a motion for reconsideration. On September 12, 2012, the Ninth Circuit Court of Appeal
26 dismissed plaintiff’s appeal for failure to prosecute. On November 8, 2012, this court denied
27 plaintiff’s motion for reconsideration. Approximately eight months later, plaintiff filed a motion
28 for relief from judgment and then a motion for administrative justice. On October 4, 2013, this

1 court denied both motions. On October 11, 2013, plaintiff filed a notice of appeal from the
2 denial of those two post-judgment motions.

3 Rule 24(a)(3) of the Federal Rules of Appellate Procedure provides that a party granted
4 leave to proceed IFP in district court may continue in that status on appeal unless the district
5 court certifies that the appeal is not taken in good faith. Section 1915(a)(3) of Title 28 of the
6 United States Code similarly provides that an appeal may not be taken IFP if the trial court
7 certifies it is not taken in good faith. “Not taken in good faith” means “frivolous.” *Ellis v.*
8 *United States*, 356 U.S. 674, 674-75 (1958); *Hooker v. American Airlines*, 302 F.3d 1091, 1092
9 (9th Cir. 2002) (order).

10 Because the court’s ruling was correct, the court CERTIFIES that plaintiff’s appeal is
11 frivolous and therefore not taken in good faith. The Clerk shall notify plaintiff forthwith and the
12 Ninth Circuit Court of Appeal of this order. *See* Fed. R. App. P. 24(a)(4).

13 IT IS SO ORDERED.

14 DATED: 10/23/13


15 LUCY H. KOH
United States District Judge